

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON DIVISION

Charles Jennings, # 249258)	C.A. No. 8:04-21931-CMC-BHH
)	
Petitioner,)	
)	
v.)	ORDER AND OPINION
)	
Colie Rushton, Warden, McCormick)	
Correctional Institution; and)	
Henry McMaster, Attorney General for)	
South Carolina,)	
)	
Respondents.)	
)	

Petition, proceeding *pro se*, has filed a writ of habeas corpus seeking relief pursuant to 28 U.S.C. §2254. Respondents filed a motion for summary judgment and Petitioner filed a response to the motion.

In accordance with the court's order of reference, 28 U.S.C. § 636(b), and Local Rule 73.02 (B)(2)(b), (d), and (e), DSC, this matter was referred to United States Magistrate Judge Bruce H. Hendricks for pre-trial proceedings and a Report and Recommendation. On May 23, 2005, the Magistrate Judge issued a Report recommending Respondents' motion for summary judgment be granted. The Magistrate Judge advised Petitioner of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. Petitioner has filed no objection and the time for doing so has expired.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which

a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

After reviewing the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order.

IT IS THEREFORE ORDERED that Respondents' motion for summary judgment is **GRANTED** and this matter is *dismissed with prejudice*.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON McGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
June 21, 2005